

HOUSE No. 3513

By Mr. Honan of Boston, petition of Kevin G. Honan and others for legislation to authorize the installation of photomonitoring traffic safety devices on certain roadways in the cities of Boston and Cambridge. Transportation.

The Commonwealth of Massachusetts

PETITION OF:

Kevin G. Honan
Thomas M. Menino
John A. Hart, Jr.

Elizabeth A. Malia
Susan Williams Gifford

In the Year Two Thousand and Seven.

AN ACT PERMITTING THE USE OF TRAFFIC CONTROL SIGNAL VIOLATION MONITORING SYSTEM DEVICES AS A MEANS OF PROMOTING TRAFFIC SAFETY.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. (a) Notwithstanding the provisions of any general or
2 special law to the contrary, the City of Boston and the City of Cam-
3 bridge may, upon the acceptance of this act, employ a traffic control
4 signal violation monitoring system along any portion of any ways
5 within its control and may promulgate local measures imposing a
6 penalty on the owner of a motor vehicle for failure by the operator
7 thereof to comply with the laws, codes, regulations, ordinances,
8 rules and/or other forms of legislation governing the traffic control
9 signals in said cities at which a traffic control signal violation moni-
10 toring system is located.

11 (b) As used in this act, the following words shall, unless the con-
12 tent clearly indicates otherwise, have the following meanings:—

13 “Local measure”, shall mean the ordinances, rules and regulations
14 adopted by the City of Boston or the City of Cambridge, whichever
15 is applicable, establishing a schedule of fines imposed on the owner
16 of a motor vehicle for failure by the operator thereof to comply with

17 the laws, codes, regulations, ordinances, rules and/or other forms of
18 legislation governing the traffic control signals in said cities at which
19 a traffic control signal violation monitoring system is located;

20 “Motor vehicle”, shall have the meaning provided in Section 1 of
21 Chapter 90 of the General Laws;

22 “Operator”, shall have the meaning provided in Section 1 of
23 Chapter 90 of the General Laws;

24 “Owner”, shall have the meaning provided in Section 1 of
25 Chapter 90 of the General Laws;

26 “Traffic control signal violation monitoring system”, shall mean
27 an automated motor vehicle sensor device installed to work in con-
28 junction with a traffic control signal which produces two or more
29 wet-film photographs, two or more digital photographs, two or more
30 microphotographs, streaming video images, or other recorded
31 images of each motor vehicle at the time it is used or operated in a
32 manner that is in violation of the traffic control signal at which the
33 automated monitoring system is located. The photographs,
34 microphotographs, streaming video images, or other recorded
35 images must, at a minimum, record the rear of the motor vehicle,
36 with at least one of the images clearly recording the motor vehicle
37 behind the stop bar immediately prior to the violation of the traffic
38 control signal, and at least one image recording the motor vehicle
39 passing through the intersection in violation of the traffic control
40 signal. Additionally, at least one of the images must clearly identify
41 the registration plate of the motor vehicle;

42 “Violation”, shall mean the failure of an operator of a motor
43 vehicle to comply with the laws, codes, regulations, ordinances,
44 rules and/or other forms of legislation governing the traffic control
45 signals at which a traffic control signal violation monitoring system
46 is located.

47 (c) No traffic control signal violation monitoring system shall be
48 utilized in such a manner as to take a frontal view photograph of the
49 motor vehicle that is in violation of the traffic control signal.

50 (d) A certificate, or a facsimile thereof, based upon inspection of
51 photographs, microphotograph, streaming video, or other recorded
52 images produced by a traffic control signal violation monitoring
53 system, and sworn to or affirmed by a police officer authorized to
54 issue citations for violations of traffic signals at the subject intersec-
55 tion, shall be prima facie evidence of the facts contained therein. No

56 photographs, microphotographs, streaming video, or other recorded
57 images taken in conformance with this act shall be discoverable in
58 any judicial or administrative proceeding other than a proceeding
59 held pursuant to this act; and no photographs, microphotographs,
60 streaming video, or other recorded images taken in conformance
61 with this act shall be admissible in any judicial or administrative
62 proceeding other than in a proceeding to adjudicate liability for such
63 violation of this act.

64 (e) For each violation pursuant to this act, the owner or owners of
65 a vehicle shall be liable for the penalty imposed by a local measure;
66 provided, however, that no owner of a vehicle shall be liable for a
67 penalty imposed pursuant to this act where the operator of such
68 vehicle has been convicted of the underlying violation pursuant to a
69 citation issued in accordance with Section 2 of Chapter 90C of the
70 General Laws, and provided, further, that the maximum penalty that
71 may be imposed pursuant this act shall be One Hundred Dollars
72 (\$100.00) for each violation.

73 (f) A penalty imposed by a local measure may, if so provided in
74 the local measure, be increased by up to 33¹/₃% if said fine remains
75 unpaid in excess of 30 days after a notice of violation has been
76 issued consistent with the procedures established in Section 20A¹/₂
77 of Chapter 90 of the General Laws.

78 (g) A penalty imposed by a local measure for a violation pursuant
79 to this act shall not be deemed a criminal conviction and shall not be
80 made part of the operating record of the person upon whom such lia-
81 bility is imposed, nor shall such imposition of a penalty be subject to
82 merit rating for insurance purposes and no surcharge points shall be
83 imposed in the provision of motor vehicle insurance coverage.

1 SECTION 2. (a) The compensation paid to the manufacturer or
2 vendor of the traffic control signal monitoring system deployed as a
3 means of promoting traffic safety as authorized herein shall not be
4 based upon the number of traffic citations issued or any portion or
5 percentage of the fine generated by such citations. The compensation
6 paid to such manufacturer or vendor of the equipment shall be based
7 upon the value of such equipment and the services provided or ren-
8 dered in support of the traffic control signal monitoring system.

9 (b) Other than for purposes of enforcement of a violation of this
10 act or for purposes of an owner defending a violation of this act, no

11 private entity or individual may obtain photographs, micropho-
12 tographs, streaming video or other recorded images or records taken
13 pursuant to this act.

1 SECTION 3. (a) The parking clerk designated or appointed by the
2 city shall supervise and coordinate the administration of violations
3 issued pursuant to Section 1. The parking clerk shall have the
4 authority to hire and designate such personnel as may be necessary
5 or contract for such services to implement the provisions of this
6 section.

7 (b) It shall be the duty of the parking clerk of the city employing
8 its traffic control signal violation monitoring system to deliver the
9 notice of violation to the registered owner or owners of any motor
10 vehicle identified in any photographs, microphotographs, streaming
11 video or other recorded images produced by such device as evidence
12 of a violation pursuant to this act. Such notice shall contain but not
13 be limited to the following information:— a copy of the aforemen-
14 tioned recorded images showing the vehicle in violation of the traffic
15 signal, the registration number and state of issuance of said registra-
16 tion number of the vehicle; the date, time and intersection location of
17 the violation; the specific violation charged; a schedule of fines for
18 such violation as established by the city or town; instructions for the
19 return of the notice; and text as follows:—

20 “This notice may be returned personally, by mail, or by an agent
21 authorized in writing. A hearing may be obtained upon the written
22 request of the registered owner in writing. Failure to obey this notice
23 within 30 days of issuance of this notice will result in the non-
24 renewal or suspension of the license to drive and the certificate of
25 registration of the registered owner.”

26 (c) In the case of a violation involving a motor vehicle registered
27 under the laws of the Commonwealth, such notice of violation shall
28 be mailed within 14 days of the violation, exclusive of Sundays and
29 holidays, to the address of the registered owner or owners as listed in
30 the records of the registrar of motor vehicles. In the case of any
31 motor vehicle registered under the laws of another state or country,
32 such notice of violation shall be mailed within 21 days of the viola-
33 tion, exclusive of Sundays and holidays, to the address of the regis-
34 tered owner or owners as listed in the records of the official in such
35 state or country having charge of the registration of such motor

36 vehicle. If said address is unavailable, it shall be sufficient for the
37 parking clerk to mail notice of violation to the official in such state
38 or country having charge of the registration of such motor vehicle.

39 (d) Notice of violation shall be sent by first class mail in accor-
40 dance with subsection (c) and shall include an affidavit form
41 approved by the parking clerk for the purpose of complying with
42 subsection (g). A manual or automatic record of mailing prepared by
43 the parking clerk in the ordinary course of business shall be prima
44 facie evidence thereof, and shall be admitted as evidence in any judi-
45 cial or administrative proceeding, as to the facts contained therein.

46 (e) Any motor vehicle owner to whom notice of violation has
47 been issued pursuant to this act may admit responsibility for such
48 violation and pay the fine provided therein. Payment shall be made
49 either personally or through a duly authorized agent, or by appearing
50 before the parking clerk during normal office hours, or by mailing
51 both payment and notice of the violation to the parking clerk. Pay-
52 ment by mail shall be made only by money order, credit card or
53 check made out to the parking clerk. Payment of the established fine
54 and any applicable penalties shall operate as a final disposition of
55 the case. Payment of the fine by one motor vehicle owner shall be
56 satisfaction of the fine as to all other motor vehicle owners of the
57 same motor vehicle for the same violation.

58 (f) Any owner to whom a notice of violation has been issued may,
59 within 30 days of the mailing of said notice by the parking clerk,
60 request a hearing to contest the liability alleged in said notice. A
61 hearing request shall be made either personally or through a duly
62 authorized agent by appearing before the parking clerk during reg-
63 ular business hours or by mailing a request in writing to the parking
64 clerk. Upon receipt of a hearing request, the parking clerk shall
65 forthwith schedule the matter before a person hereafter referred to as
66 a hearing officer, said hearing officer to be the parking clerk of the
67 city wherein the violation occurred or such other person or persons
68 as the parking clerk may designate. Written notice of the date, time
69 and place of said hearing shall be sent by first class mail to each reg-
70 istered owner. Said hearing shall be informal, the rules of evidence
71 shall not apply, and the decision of the hearing officer shall be final
72 subject to judicial review as outlined by Section 14 of Chapter 30A
73 of the General Laws. Within twenty-one days of the hearing, the
74 parking clerk or the hearing officer should send by first class mail to

75 the registered owner or owners the decision of the hearing officer,
76 including the reasons for the outcome.

77 Any owner to whom a notice of violation has been issued shall
78 not be liable for a violation under the provisions of this act (1) if the
79 violation was necessary to allow the passage of an emergency
80 vehicle; (2) if the violation was necessary in order to protect the
81 property or person of another; (3) if the violation was incurred while
82 participating in a funeral procession; (4) if the violation was incurred
83 during a period of time in which the motor vehicle was reported to
84 the police department of any state, city or town as having been
85 stolen and had not been recovered prior to the time the violation
86 occurred; (5) if the operator of the motor vehicle was operating the
87 motor vehicle under a rental or lease agreement and the owner of the
88 motor vehicle is a rental or leasing company and has complied with
89 the provisions of Section 20E of Chapter 90 of the General Laws;
90 (6) if the operator of the motor vehicle was convicted of the under-
91 lying violation pursuant to a citation issued in accordance with
92 Section 2 of Chapter 90C of the General Laws; or (7) if the violation
93 was necessary to comply with any other law or regulation governing
94 the operation of a motor vehicle at the intersection. An owner dis-
95 puting a violation under this section shall, within 30 days, provide
96 the parking clerk with a signed affidavit in a form approved by the
97 parking clerk, as provided for in subsection (d), stating (1) the
98 reason for disputing the violation; (2) the full legal name and address
99 of the owner of the motor vehicle; (3) the full legal name and
100 address of the operator of the motor vehicle at the time the violation
101 occurred; (4) the names and addresses of all witnesses supporting the
102 owner's defense and the specifics of their knowledge; and where
103 applicable (5) the signed statements from witnesses.

104 If an owner to whom notice of violation has been issued either
105 fails to pay the fine provided for in said notice in accordance with
106 subsection (e), or fails to receive a favorable adjudication of said
107 notice from a hearing officer in accordance with subsection (f), the
108 parking clerk shall notify the registrar of motor vehicles who shall
109 place the matter on record. Upon notification to the registrar of two
110 or more notices under this act and/or Sections 20A and 20A½ of
111 Chapter 90 of the General Laws from the parking clerk of either city
112 or state authorities or agencies, the registrar shall not issue or renew
113 or may suspend such owner's license to operate a motor vehicle or

114 motor vehicle registration until after notification from the parking
115 clerk of each city, agency or authority, from whom the registrar
116 received notification, that all fines, taxes and penalties owed by such
117 owner pursuant to either this section, or arising out of the parking or
118 usage of such owner's motor vehicles, have been disposed of in
119 accordance with law. Upon such notification to the registrar, an addi-
120 tional charge of \$20 payable to the registrar but collected by the city,
121 and an additional charge of \$20 payable to and collected by the city,
122 shall be assessed against the registered owner of said motor vehicle.
123 It shall be the duty of the parking clerk to notify the registrar forth-
124 with that such case has been so disposed; provided, however, that
125 certified receipt of full and final payment from the parking clerk of
126 the city or state agency or authority issuing such violation shall also
127 serve as legal notice to the registrar that said violation has been dis-
128 posed of in accordance with law. The certified receipt shall be
129 printed in such form as the registrar of motor vehicles may approve.

130 Upon the accumulation by an owner of five or more outstanding
131 notices under this act and/or Sections 20A and 20½ of Chapter 90 of
132 the General Laws on account of violations of any statute, ordinance,
133 order, rule or regulation relating to the operation, control or parking
134 of motor vehicles in a particular city, notwithstanding any notifica-
135 tion to the registrar, the parking clerk of such city may notify the
136 chief of police or director of traffic and parking of such city that the
137 vehicle bearing the registration to which said notices have been
138 issued shall be removed and stored or otherwise immobilized by a
139 mechanical device at the expense of the registered owner of such
140 vehicle until such time as all fines, taxes and penalties owed by such
141 owner pursuant to either this section, or arising out of the parking or
142 usage of such owner's motor vehicle have been disposed of in accor-
143 dance with law. No vehicle shall be removed, stored, or otherwise
144 immobilized until and unless the owner of such motor vehicle shall
145 have received 10 days notification by mail that such motor vehicle
146 may be removed, stored, or immobilized without further notification.
147 It shall be sufficient for the parking clerk to mail, postage prepaid,
148 said notification to the last known address of the registered owner. It
149 shall be sufficient for the parking clerk, in the case of a motor
150 vehicle registered in another state or country, to mail notification to
151 the official in such state or country having charge of the registration
152 of such motor vehicle.

153 Photographic and other recorded evidence obtained through the
154 use of automated enforcement devices deployed as a means of pro-
155 moting traffic safety authorized herein within the Cities of Boston
156 and Cambridge shall be destroyed within 1 year of final disposition
157 of any recorded event. Said cities shall file notice annually with the
158 Secretary of State that said records have been destroyed in accor-
159 dance with this section.

160 The administrator of the traffic control signal monitoring system
161 within the Cities of Boston and Cambridge authorized herein shall
162 submit a report regarding the use and operation of the traffic control
163 signal monitoring system. Said report shall include the results of
164 using the automated enforcement devices and the procedures for
165 enforcement, as well as any enhancement of citywide traffic safety
166 and enforcement programs. The administrators shall submit said
167 report, including any recommended legislation, to the joint com-
168 mittee on public safety, the joint committee on the judiciary and the
169 senate and house committees on ways and means on or before July
170 1, 2006.

1 SECTION 4. The provisions of this act shall be repealed as of
2 July 1, 2008.